

**CONTRACT #2**  
**RFS # 337.10-542**

**Department of Labor &  
Workforce Development**

**VENDOR:**  
**Integris, Inc.,**  
**D/B/A Bull Services**



**STATE OF TENNESSEE  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**PHIL BREDESEN**  
GOVERNOR

Andrew Johnson Tower  
710 James Robertson Pkwy, 8th FLOOR  
Nashville, TN 37243-0655  
(615) 741-2582

**JAMES G. NEELEY**  
COMMISSIONER

July 18, 2005

**RECEIVED**

AUG 01 2005

**FISCAL REVIEW**

M. D. Goetz, Jr., Commissioner  
Department of Finance and Administration  
State Capitol  
Nashville, TN 37243

REF: 337.10-542 Non Competitive contract with Integris, Inc., dba Bull Services

Dear Mr. Goetz:

Outlined below is our justification for a Non Competitive Contract with Integris, Inc., dba Bull Services.

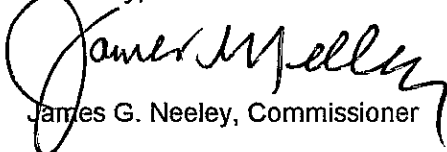
The Contract start date is August 1, 2005 and the initial end date is July 31, 2008.

As part of the State's Disaster Recover Plan, the agency is required to maintain an offsite facility to continue the Department's operations. The Bull mainframe system supports the majority of the Unemployment Insurance data bases which serve the public and cannot not be out of service. The Bull System is also used to process the State's unemployment checks that are processed weekly.

The Bull System is unique and no other vendor can duplicate the exact system the State uses. No other vendor has the Bull hardware or systems software. We have searched the Internet for providers of Bull DPS 9000 Disaster Recovery Services and was not able to identify any other provider other than Bull HN via Integris.

Based on the above facts, I am requesting you approval of this non-competitive contract.

Sincerely,

  
James G. Neeley, Commissioner

JGN: HS: mho

# REQUEST: NON-COMPETITIVE CONTRACT

APPROVED

Commissioner of Finance & Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A REQUEST CAN NOT BE CONSIDERED IF INFORMATION PROVIDED IS INCOMPLETE, NON-RESPONSIVE, OR DOES NOT CLEARLY ADDRESS EACH OF THE REQUIREMENTS INDIVIDUALLY AS REQUIRED.

RFS # 337.10-542

STATE AGENCY NAME : Labor and Workforce Development

SERVICE CAPTION : Backup Recovery Services for use in case of a major disaster affecting the States's GCOS Computing Facility

PROPOSED CONTRACTOR : Integris, Inc., DBA Bull Services

CONTRACT START DATE : August 1, 2005  
(if date is < 60 days after F&A receipt, attach required explanation)

LATEST POSSIBLE END DATE : July 31, 2010  
(including ALL options to extend)

TOTAL MAXIMUM COST : 388,250.00  
(including ALL options to extend)

APPROVAL CRITERIA :  
(select one)

☐ use of Non-Competitive Negotiation is in the best interest of the state

☒ only one uniquely qualified service provider able to provide the service

ADDITIONAL REQUIRED REQUEST DETAILS BELOW (address each item immediately following the requirement text)

(1) description of service to be acquired :

Offsite Backup Recovery Services for use in case of a major disaster affecting the States's GCOS Computing Facility.

(2) explanation of the need for or requirement placed on the procuring agency to acquire the service :

As part of the State's Disaster Recover Plan, the agency is required to maintain an offsite facility to continue the Departments operations. The Bull mainframe system supports the majority of the Unemployment Insurance data bases which serve the public and cannot not be out of service. The Bull System is also used to process the State's unemployment checks that are processed weekly.

(3) explanation of whether the service was ever bought by the procuring agency in the past, and if so, what method was used to acquire it :

This backup service has been procured by agency on a non-competitive bases since 2000. This vendor has an exact duplicate backup Bull System that the State uses and they are the only vendor that can provide this service.

(4) name and address of the proposed contractor's principal owner(s) :

(not required if proposed contractor is a state education institution)

Jonathan J. Burbank, President, Integris, Inc. dba as Bull Services, 296 Concord Road, Suite 180, Billerica, MA 01821-4186

**(5) evidence that the proposed contractor has experience in providing the service and evidence of the length of time the contractor has provided service :**

This vendor has been providing this backup services since 2000 in accordance with the contract's scope services.

**(6) documentation of OIR endorsement of the Non-Competitive procurement request :**  
(required only if the subject service involves information technology)

**select one:**

☐

Documentation Not Applicable to this Request

☒

Documentation Attached to this Request

**(7) documentation of Department of Personnel endorsement of the Non-Competitive procurement request :**  
(required only if the subject service involves training for state employees)

**select one:**

☒

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

**(8) description of procuring agency efforts to identify reasonable, competitive, procurement alternatives rather than to use non-competitive negotiation :**

We have searched the Internet for providers of Bull DPS 9000 Disaster Recovery Services and was not able to identify any other provider other than Bull HN via Integris.

**(9) justification of why the state should acquire the service through Non-Competitive Negotiation rather than through a competitive process :**  
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

The Bull System is unique and no other vendor can duplicate the exact system the State uses. No other vendor has the Bull hardware or systems software. We have searched the Internet for providers of Bull DPS 9000 Disaster Recovery Services and was not able to identify any other provider other than Bull HN via Integris.

**AGENCY HEAD REQUEST SIGNATURE:**

(must be signed by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR — signature by an authorized signatory will be accepted only in documented exigent circumstances)

**SIGNATURE DATE:**

7-18-05

*Faxed  
7-14-05  
mso*



STATE OF TENNESSEE

# FAX TRANSMITTAL

TO:	Bill Ezell, Chief Executive Officer Office for Information Resources	FAX # 532-0471
FROM:	Tyrone Sullivan, Director Emp. Security Info. Technology	FAX # 741-3002
DATE:	July 14, 2005	
RFS#	337.10-542	
RE:	OIR Procurement Endorsement Documentation for — Backup Recovery Service	
NUMBER OF FAX PAGES (INCLUDING COVER): 3		
<p>The proposed, service procurement documents referenced above are hereby forwarded to the Office for Information Resources (OIR) for review. The subject scope of services appears to include information systems services or information technology support activities.</p> <p>This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter to determine whether OIR is supportive. Please indicate OIR endorsement of the procurement described by signature below and return this communication at your earliest convenience (note the return FAX number above).</p> <p>If you have any questions or concerns about this matter, please call <b>Tyrone Sullivan</b> at <b>741-8981 ext. 185</b>.</p> <p>Thank you for your help.</p> <p>Attachment (1)</p> <p style="text-align: right;"><i>See Bill Ezell's attached Email mso 11/28/05</i></p>		
OIR ENDORSES THE SUBJECT PROCUREMENT REQUEST		
Office for Information Resources		Date

**From:** Bill Ezell  
**To:** Tyrone Sullivan  
**Date:** 7/27/05 9:32:45 AM  
**Subject:** DR

Tyrone,

We have determined that our current hotsite contract cannot support your needs. The procurement request will be approved this morning.

Bill

**From:** Bill Ezell  
**To:** Tyrone Sullivan  
**Date:** 7/21/05 5:12:38 PM  
**Subject:** Fwd: LWFD Bull System DR

Tyrone,

I asked Van to look at your request and see if we could save any \$ by using our existing hot site. It's a long shot but worth looking at. Will let you hear from us by early next Tuesday.

Van...please tell IBM that we need an answer by Monday.

Bill

>>> Van Moffatt 07/21/05 4:28 PM >>>

Bill,

I read the information regarding the Bull system DR and it seems pretty good and much in line with how we do our zSeries recovery with IBM. I will send the Bull configuration over to IBM and ask if they can provide this support as part of our existing contract and if so, they can give us quote to compare.

I hope to have that answer early next week. Let me know if you have any question.

Thanks. Van

**CC:** Van Moffatt

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
AND**

**INTEGRIS INC., doing business as BULL SERVICES**

This Contract, by and between the State of Tennessee, Department of Labor and Workforce Development, hereinafter referred to as the "State" and Integris Inc., doing business as Bull Services, hereinafter referred to as the "Contractor," is for the provision of Backup Recovery Services for use in a major disaster affecting the State's GCOS Computing Facility and its related communications network, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for profit corporation. The Contractor's address is:

296 Concord Road  
Suite 180  
Billerica, MA 01821-4186

The Contractor's place of incorporation is Delaware.

**A. SCOPE OF SERVICES:**

- A.1. The purpose of this Contract is for the Contractor to provide the State with Backup Recovery Services for use in a disaster affecting the State's GCOS Computing Facility and its related communications network as well as Site to Site VPN services from Contractor's Backup Recovery Services Facility. For purposes of this Contract, the term "Services" shall mean the Backup Recovery Services and the Site to Site VPN Services. The State requires a fully-equipped Backup Recovery Computer Facility, with a computer configuration which meets the State's configuration specifications and is capable of running the State's operating system, systems software, and applications software for a period of up to (6) consecutive weeks.
- A.2. The Contractor will provide and maintain a fully equipped Backup Recovery Computer Facility, with computer configurations as set forth in Attachment 1, Section 1. ("Backup System Configuration") The State hereby certifies that the Backup System Configuration meets its configuration specifications.
- A.3. The State will require an annual test time allowance of up to seventy-two (72) contiguous hours on the backup system. The Contractor will also provide up to ten (10) hours of technical assistance to support the State staff in making sure that backup operations can be implemented in the Contractor's Backup Recovery Computer Facility.
- A.4. The Contractor will provide Site to Site VPN and will supply an IP address for connectivity at its Backup Recovery Computer Facility, as more fully described in Attachment 1, Section 2 (the "Site to Site VPN Services").
- A.5. The Contractor will provide the State with an adequate amount of office space for up to five (5) personnel and a dedicated customer control center with telephones, fax machines, and conference area.
- A.6. The Contractor will provide reasonable library space with tape racks for the State's use during a test or in the event of a disaster.
- A.7. The Contractor will provide assistance with logistics for travel and lodging during a disaster or test.
- A.8. During any Contractor visit to the Backup Recovery Computer Facility for testing use or backup use, Contractor will make available to the State a technically qualified individual to assist the State in Setting up the State's environment, responding to operational questions and facilitating the State's use of the Backup System Configuration.

- A.9. The State or designated agents of the State shall be permitted to conduct on-site inspections of any and all of the above practices, procedures, equipment, control systems, etc., used to provide Backup Recovery Services for the State once prior to entering into this agreement and periodically during the term of this Contract. All inspections shall be conducted during Contractor's normal business hours and with advance written notice of not less than one business day to Contractor, and no more often than quarterly.
- A.10. The Contractor will provide access for all participating State personnel to its contracted Backup Recovery Computer facility during testing, inspections and in a disaster. The State shall provide Contractor a written list of all authorized State personnel.
- A.11. The Contractor will provide adequate secured vault storage areas for storage of essential printed forms, supplies and data tapes within a secured, monitored environment with fire protection system.
- A.12. The Contractor shall provide the Backup System Configuration for the State within 24 hours of the State's notification to Contractor of a declared disaster. An initial oral notification is acceptable however, a written confirmation must be received by Contractor within two (2) working days after the oral notification.
- A.13. The State may continue Backup Recovery Services use for a period of up to three (3) months beyond the initial authorization period at the Contractor's sole discretion, provided that there is no conflict with other use arrangements accepted by Contractor, in which event Contractor may terminate the State's extended use upon 24 hours notice to the State.
- A.14. In a disaster the Backup System Configuration is available to the State 24 hours per day and is chargeable at the per diem rate in Section C.3, subject to a 5-day minimum. The parties agree that the Backup Recovery System is a shared system that use time will be scheduled on an equitable basis.
- A.15. Changes in scope and/or level of Services under this Agreement may be made by a mutually approved Request for Change. An example of a Request for Change is attached to the Contract as Attachment 2. Each completed Request for Change shall be managed by Contractor. The Request for Change may be supplemented by any additional information which would help expedite the change and any such documentation shall be attached to the original completed form. Approved Requests for Change must be signed by authorized representatives of the State and Contractor.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on August 1, 2005 and ending on July 31, 2008 ("Initial Term"). The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. Subject to Contractor's agreement and the payment of Contractor's then current fees, the State shall have the option to extend this Contract for two (2) additional one (1) year periods, provided that the State and the Procuring Party agree to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract the increase in the Procuring Party's maximum liability will also be effected through an amendment to the Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract for the services described in Section C.3 herein exceed Two Hundred Twenty Nine Thousand Five Hundred Dollars [\$229,500]. The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service described in Section C.3 regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

**CONTRACT SUMMARY SHEET**

<b>RFS Number:</b>	337.10-542	<b>Contract Number:</b>					
<b>State Agency:</b>	Labor and Workforce Development	<b>Division:</b>	Employment Security				
<b>Contractor:</b>		<b>Contractor Identification Number:</b>					
Intergis, Inc. dba Bull Services		<table border="1"> <tr> <td>X</td> <td>V-</td> </tr> <tr> <td></td> <td>C-</td> </tr> </table>	X	V-		C-	043574101-00
X	V-						
	C-						

**Service Description**

Backup Recovery Services for use in case of a major disaster affecting the States's GCOS Computing Facility

<b>Contract Begin Date:</b>	<b>Contract End Date:</b>
08/01/2005	07/31/2008

<b>Allotment Code:</b>	<b>Cost Center:</b>	<b>Object Code:</b>	<b>Fund:</b>	<b>Grant:</b>	<b>Grant Code:</b>	<b>Subgrant Code:</b>
337.10	00076	082/830	11	X on STARS	210	050

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount Include ALL amendments
06		\$70,125.00			\$70,125.00
07		\$76,500.00			\$76,500.00
08		\$76,500.00			\$76,500.00
09		\$6,375.00			\$6,375.00
					\$0.00
					\$0.00
<b>Total:</b>	\$0.00	\$229,500.00	\$0.00	\$0.00	\$229,500.00

<b>CFDA Number:</b>	17.225	<b>Check the box (below) ONLY if the answer is YES</b>
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<b>State Fiscal Contact:</b>		<b>Is the Contractor a SUBRECIPIENT? (per OMB A-133)</b>	
<b>Name:</b>	Melvin O'Neal	<b>Is the Contractor a VENDOR? (per OMB A-133)</b>	x
<b>Address:</b>	Andrew Johnson Tower, 8th Floor	<b>Is the Fiscal Year Funding STRICTLY LIMITED?</b>	
<b>Phone:</b>	615 532-1071	<b>Is the Contractor on STARS?</b>	x
<b>Procuring Agency Budget Officer Signature:</b>		<b>Is the Contractor's FORM W-9 ATTACHED?</b>	
		<b>Is the Contractor's Form W-9 Filed with Accounts?</b>	x

**COMPLETE FOR ALL AMENDMENTS (only)**

	Base Contract & Prior Amendments	This Amendment ONLY
<b>End Date &gt;</b>		
<b>FY</b>		
<b>FY</b>		
<b>FY</b>		
<b>FY</b>		
<b>FY</b>		
<b>FY</b>		
<b>Totals:</b>	\$0.00	\$0.00

**Funding Certification**

Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.

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DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
AND**

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- B.2. Term Extension. Subject to Contractor's agreement and the payment of Contractor's then current fees, the State shall have the option to extend this Contract for two (2) additional one (1) year periods, provided that the State and the Procuring Party agree to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract the increase in the Procuring Party's maximum liability will also be effected through an amendment to the Contract.

C. PAYMENT TERMS AND CONDITIONS:

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The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and, except for the Monthly Charges in Section C.3, does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid the Declaration Fee and Equipment Use Charges in accordance with the Service Rates detailed in Section C.3. Other than the Monthly Charges in Section C.3, the State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The service rates set forth in Section C.3 and the Maximum Liability of the State set forth in Section C.1 under this contract are firm for the thirty-six (36) month Initial Term of this contract and are not subject to escalation during the Initial Term for any reason unless amended. At the expiration of the thirty-six (36) month Initial Term, the State may renew for two (2) additional one (1) year periods at Contractor's then-current one-year rates. No charge will exceed Contractor's then current commercial charge.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

**SERVICE UNIT**

**FEES**

DPS9000 GCOS Backup Recovery Service, Specified Initial Peripherals, and Site to Site VPN Services	\$ 6,375.00 Monthly
Declaration Fee in Case of a Disaster	\$20,000.00 One Time Fee
DPS9000 GCOS Equipment Use Charges in a declared disaster (Minimum of Five (5) Days Charge)	\$ 5,000.00 Per Day

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging. The State agrees that all support under this Contract shall be supplied from Contractor's facilities.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH) within thirty (30) days of the date of Contractor's invoice. The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least ninety (90) days written notice before the effective termination date.
- D.3.a. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered.
- D.3.b. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or violates any terms of this Contract, the other party shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services, or to exercise any other remedy at law or in equity. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor, subject to the Provisions of Section E.8., E.9. and E.10. of this Contract.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.).
- Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives at no cost to Contractor. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities and records maintained which are directly related to Contractor's performance under this Agreement shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives. Any such monitoring and evaluation shall be conducted (i) upon reasonable advance notice to Contractor (ii) during Contractor's normal business hours, and (iii) at no cost to Contractor.
- D.10. Progress Report. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties control that could not be avoided by the exercise of due care including, but not limited to, accident, acts of God, fire or water damage, riots, wars, strikes, epidemics, lightning, electrical disturbances or any other similar cause.

D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.

D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Melvin O'Neal, Accounting Manager  
Department of Labor and Workforce Development  
Administrative Services, 9<sup>th</sup> Floor  
Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, TN 37245-2900  
Telephone Number (615) 741-2146  
Facsimile Number (615) 532-2464

The Contractor:

Jonathan J. Burbank, President  
Integris Inc., d/b/a Bull Services  
296 Concord Road  
Suite 180  
Billerica, MA 01821-4118  
Telephone Number (978) 294-4246  
Facsimile Number (978) 294-6114

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. The foregoing notwithstanding, the State represents and warrants that sufficient funds have been appropriated by the State to compensate Contractor for services during the first 12 months of this Contract.

- E.4. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.5. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information provided to the Contractor by the State or acquired by the Contractor on behalf of the State whether verbal, written, magnetic tape, cards or otherwise shall be regarded as confidential information in accordance with the provisions of State

law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.6. **Hold Harmless.** The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of negligent acts, omissions, or willful misconduct on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor where the State is awarded a judgment against the Contractor in a court of competent jurisdiction.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all reasonable assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.7. **Year 2000 Hold Harmless.** As required by Tennessee Code Annotated, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.
- E.8. **This Agreement does not include any changes to the State's applications, data, files or software to correctly handle Year 2000 date functions and calculations and Contractor shall have no obligation or liability in connection therewith. The State further acknowledges and agrees that products used by the State may not be made "Year 2000 Ready" as defined by Contractor) and that Contractor has no obligation or liability with respect to such products.**
- E.9. Contractor and the State are not liable for any indirect, special or consequential damages or lost profits to anyone arising out of this Agreement or the use of services, products, materials or documentation.
- E.10. Contractor is not liable for any loss, destruction or damage to the State's application programs and data files unless due solely to the fault of Contractor and then only to the extent of restoring the lost, destroyed or damaged programs and data files, provided that such restoration can be reasonably performed by Contractor. The State shall furnish Contractor with all information necessary for such restoration.
- E.11. The State's exclusive remedy and Contractor's entire liability in contract, tort, negligence or otherwise arising out of or in any way connected with service hereunder is the payment by Contractor of actual damages not to exceed the actual charges paid by the State to Contractor for the period that such service caused the actual damage.
- E.12. Notwithstanding anything in this section to the contrary, any provision or provisions of this section will not apply to the extent it is determined by a court of competent jurisdiction, including appellate review if pursued, to violate the law or constitution of the State of Tennessee.

- E.13. **THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE NOT SPECIFIED HEREIN RESPECTING THIS AGREEMENT OR THE SERVICES, PRODUCTS, MATERIALS AND DOCUMENTATION PROVIDED. CONTRACTOR DOES NOT WARRANT THAT THE USE OF THE SOFTWARE PRODUCTS WILL BE UNINTERRUPTED OR THAT THE SOFTWARE PRODUCTS ARE ERROR-FREE.**
- E.14. Any Reseller or third party receiving the State's orders for service hereunder or providing any service for Contractor hereunder is not a partner, agent, employee or franchise of Contractor and has no authority to bind Contractor or to assume or create any obligations express or implied on behalf of Contractor or in Contractor's name. Contractor and the State are not partners, agents, employees or franchisees of each other.

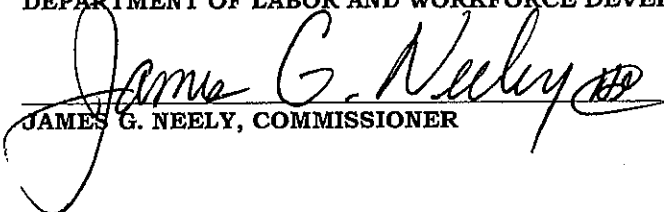
IN WITNESS WHEREOF:

INTEGRIS INC., d/b/a Bull Services

  
Jonathan J. Burbank, President,

July 13, 2005  
DATE

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT:

  
JAMES G. NEELY, COMMISSIONER

7/25/05  
DATE

APPROVED:

DEPARTMET OF FINANCE AND ADMINISTRATION:

\_\_\_\_\_  
M.D. Goetz, Jr., Commissioner

\_\_\_\_\_  
Date

COMPTROLLER OF THE TREASURY:

\_\_\_\_\_  
John G. Morgan, Comptroller of the Treasury

\_\_\_\_\_  
Date

## ATTACHMENT 1

### Backup System and Network Site to Site VPN Services Description

#### Section 1: Backup System Configuration

At the Contractor's Backup Recovery Computer Facility, Contractor will provide the following configuration:

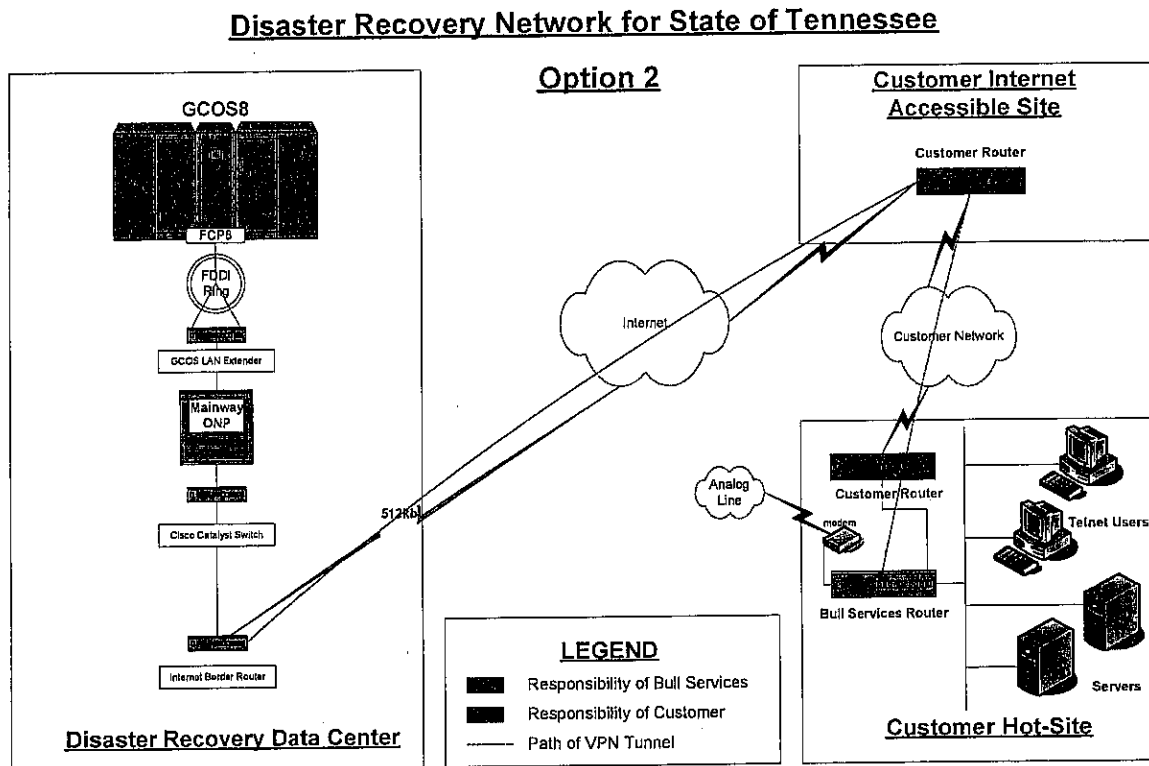
#### **Bull GCOS 8 System**

<u>Qty</u>	<u>Description</u>
1	DPS9000/541-1 Mainframe Equivalent
128 MB	Memory
80GB	DASD
6	CTS6510 Cartridge Tape Drives
2	Silverton Tape Drives
1	Mainway Front End Processor
1	DN7500 Front End Processor
	State Provided GCOS

## Section 2: Site to Site VPN Services Description

Contractor will provide active monitoring of our network services twenty-four (24) hours per day, 365 days a year through its automated Network Management Center.

The responsibilities for the communications environment between the Contractor and the State are depicted below, where references to "Customer" shall mean the "State":



At the Contractor's Backup Recovery Computer Facility, Contractor will supply and support:

- Up to 512Kb of managed bandwidth on a T-1 Internet service for Internet access to the GCOS 8 host at the Contractor's Backup Recovery Computer Facility.
- Internet routable IP Addresses for telnet and ftp access.
- A Cisco access router configured to terminate the Site to Site VPN tunnel to the State's Backup Recovery Hot-Site.
- A Cisco catalyst switch attaching the two (2) Mainway Open Network processors, the GCOS 8 LAN Extender and the Cisco access router.

At the State's Disaster Recovery Hot-Site, Contractor will supply and support:

- A Cisco access router configured to terminate the Site to Site VPN tunnel to the Contractor's Backup Recovery Computer Facility.

- A dial-in modem to allow remote management of the Contractor supplied router at the State's Backup Recovery Hot-Site.
- Network Management and Monitoring services for the equipment at the Contractor's Backup Recovery Computer Facility and the Contractor supplied router at the State's Backup Recovery Hot-Site.

At the State's Backup Recovery Hot-Site, the State will supply and support:

- An Internet service at the State's Internet access site capable of supporting up to 512Kb of additional bandwidth to support the Site to Site VPN tunnel.
- An Internet routable IP Address at the State's Internet access site that will be used to provide connectivity for the Site to Site VPN tunnel.
- The routing of the Internet routable address within the State's internal network to the State's Backup Recovery Hot-Site.
- Firewall management within the State's internal network to allow the IP services necessary for the Site to Site VPN tunnel.
- Ethernet connections at the State's Backup Recovery Hot-Site for the installation of the Contractor supplied Cisco VPN access router.
- Installation of the Contractor supplied router and remote management modem at the State's Backup Recovery Hot-Site.
- An analog line for dial-in access to the Contractor supplied remote management modem at the State's Backup Recovery Hot-Site.

## ATTACHMENT 2

### Sample Request for Change



#### REQUEST FOR CHANGE

<b>Requestor:</b>	<b>Customer:</b>	<b>Submitted:</b>
<b>Phone:</b>	<b>FAX:</b>	<b>Email:</b>
<b>Description of Change</b> (attach any supporting documentation):		
<b>Reason for Change:</b>		
<b>Requested Evaluation Date:</b>		<b>Requested Completion Date:</b>
<b>Priority</b> (check one): <input type="checkbox"/> 1= Urgent <input type="checkbox"/> 2= High <input type="checkbox"/> 3= Medium <input type="checkbox"/> 4= Low	<b>Impact</b> (check one): <input type="checkbox"/> 1= Top <input type="checkbox"/> 2= High <input type="checkbox"/> 3= Medium <input type="checkbox"/> 4= Low	<b>Affected System:</b>
<b>FOLLOWING TO BE COMPLETED BY BULL SERVICES</b> <b>Log Number:</b>		
<b>Evaluation</b> (include assessment of affected systems and components):		
<b>Deliverables:</b>		
<b>Expected Start Date:</b>		<b>Expected Completion Date:</b>
<b>Evaluator:</b>		<b>Date:</b>
<b>Summary of Charges:</b>		
<b>Billable to Cap:</b> YES <input type="checkbox"/> NO <input type="checkbox"/>	<b>If Billable, \$/hour</b>	<b>Charge Number:</b>

#### Final Approval

<b>Bull Services Approval/Date</b> (RFC valid for 30 days):
<b>Customer Approval/Date</b> (person authorized for expenditure of funds):
<b>Purchase Order Number</b> ( <b>REQUIRED</b> if direct billable):

#### After Action Review:

<b>Actual Change Date:</b> <input type="checkbox"/> No <input type="checkbox"/>	<b>Completion: Yes</b>
<b>Change Results</b> (if partial explain or if not completed list reason):	

Services and products provided by this RFC shall be under the terms and conditions of the Contract between the parties. That Contract prevails over any conflict between it and this RFC, unless expressly stated otherwise in this RFC.

